

SPECIAL CITY COUNCIL MEETING  
AUGUST 15, 1988

PRESENT

Ruth Hansen	Mayor
Wesley J. Bloomfield	Council Member
Gayle Bunker	Council Member
David Church	Council Member
Don Dafoe	Council Member

ABSENT

Rex T. Harris	Council Member
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OTHERS PRESENT

Dorothy Jeffery	City Recorder
Richard Waddingham	City Attorney
Sarah Inez Moody	Chronicle/Progress
Alan K. Riding	Assistant Public Works Director
Rita Byrd	Public Works Secretary
Mr. & Mrs. Gordon Holt	Zions First National Bank

Mayor Hansen called the meeting to order at 6:00 p.m. Dorothy Jeffery, City Recorder, acted as secretary. Mayor Hansen stated that notice of the meeting time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress, the local radio station, KNAK, and to each member of the City Council by personal delivery two days prior to the meeting.

MINUTES

The proposed minutes of a Public Hearing held August 8, 1988, were presented for consideration and approval. The Council reviewed the minutes briefly after which Council Member David Church MOVED that the minutes be approved as presented. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

The proposed minutes of a regular City Council meeting held August 8, 1988, were presented for consideration and approval. The Council reviewed the minutes briefly and proposed corrections. Council Member David Church MOVED that the minutes be approved as corrected. The motion was SECONDED by Council

Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a list of which had been given to them two days prior to the meeting. Following a brief discussion of the accounts payable, Council Member David Church MOVED that the accounts payable be approved for payment as listed in the amount of \$30,092.75. The motion was SECONDED by Council Member Wesley Bloomfield. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

GORDON HOLT, ZIONS BANK: ADOPTION OF BOND RESOLUTION AUTHORIZING \$440,000 CITY OF DELTA, MILLARD COUNTY, UTAH, INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS (ZIONS BANCORPORATION PROJECT) SERIES 1988

Mayor Hansen recognized Mr. Gordon Holt, Zions Bank, and asked him to address the Council regarding a Bond Resolution.

Mr. Gordon Holt presented a proposed resolution entitled:

RESOLUTION NO. 88-177

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, MILLARD COUNTY, UTAH, AUTHORIZING THE ISSUANCE AND SALE OF INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS (ZIONS BANCORPORATION PROJECT) SERIES 1988, IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$440,000; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE OF TRUST, FINANCING AGREEMENT, ESCROW AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND RELATED MATTERS.

Mr. Holt reviewed the resolution in detail with the Council and explained that the resolution allows Zions Bancorporation to refinance bonds at an interest rate lower than the original agreement.

Attorney Richard Waddingham requested that language be incorporated in the resolution before it is approved to state that the resolution be passed subject to such changes or amendments that may be necessary to incorporate into the Indenture of Trust, Financial Agreement, Escrow Agreement or any other documents required in connection therewith, as hereafter determined by Delta City based on further review of the Indenture

of Trust, Financing Agreement, Escrow Agreement or any other document required in connection therewith.

Following further discussion, Council Member Gayle Bunker MOVED to approve Resolution No. 88-177 with such changes or amendments that may be necessary as determined by Delta City and Zions Bancorporation based on further review of the Financing Agreement and Indenture of Trust and Escrow Agreement and may hereafter be approved by Delta City and Zions Bancorporation based on further review of the Indenture of Trust, Financing Agreement, Escrow Agreement, or any other document required in connection therewith. The motion was SECONDED by Council Member David Church. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a roll call vote. The voting was as follows:

Council Member Wesley Bloomfield	Yes
Council Member Gayle Bunker	Yes
Council Member David Church	Yes
Council Member Don Dafoe	Absent
Council Member Rex T. Harris	Absent

Mayor Hansen then signed the resolution and it was attested by City Recorder Dorothy Jeffery.

ATTORNEY RICHARD WADDINGHAM: RESOLUTION ADOPTING THE  
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM FOR THE DELTA MUNICIPAL  
AIRPORT

Mayor Hansen asked Attorney Richard Waddingham to present a proposed resolution adopting the Disadvantaged Business Enterprise Program regarding construction of the Delta Municipal Runway Rehabilitation.

Attorney Waddingham presented the following resolution entitled:

RESOLUTION NO. 88-178

BE IT RESOLVED BY THE CITY COUNCIL OF DELTA CITY THAT  
THE FOLLOWING IS ADOPTED AS THE DISADVANTAGED BUSINESS  
ENTERPRISE PROGRAM FOR THE DELTA MUNICIPAL AIRPORT.

Mr. Waddingham and the Council reviewed the proposed resolution in detail. Mr. Waddingham expressed concern regarding the language pursuant to Section IV entitled, "PERCENTAGE GOALS FOR DOLLAR VALUE OF WORK TO BE AWARDED TO DBE's", paragraph two, regarding the goals to be established for work to be awarded to DBE's which states:

Goals established for work to be awarded to DBE's will  
be based on the following:

1. The city will review the scope of each proposed procurement contract with subcontracting possibilities, i.e., construction, professional services and supply procurements, to determine specific contract goals which the bidder or proposer must meet or exceed, or demonstrate that it could not meet despite its best efforts.

2. The City, based on the estimated cost of construction, professional service or supply procurement compared to the estimated cost of that portion which can logically be subcontracted to available qualified DBEs (as determined by the DBE Directory), shall establish a specific contract goal.

Inasmuch as the percentage of work to be awarded DBE's was the crux of the policy and in which the City was subject to comply with and enforce, Attorney Waddingham was concerned as to how the percentage of work awarded to DBE's was arrived at based on the aforementioned formula.

Attorney Waddingham stated that he had contacted Frank Segmillar, of "Creamer and Noble" regarding the formula to be used in awarding a contract to DBE's. Mr. Segmillar referred Attorney Waddingham to the last page of the Resolution, which had an attachment to the resolution (Attachment 1) entitled "Delta Municipal Airport Disadvantaged and Minority Business Enterprise Plan". Mr. Segmillar pointed out that under the "Potential DBE Subcontract Work Items", listed in said Attachment I, the "Construction DBE Goal" was 6%. When asked how the 6% figure was arrived at, Mr. Segmillar indicated that both his office and the FAA used criteria based on such things as the locality of the job site, proximity of Disadvantaged and Minority Businesses to the job site, other business activities which could be conducted at the airport of which disadvantaged or minority businesses could participate, etc.

Attorney Waddingham informed the Council that Mr. Segmillar emphasized the fact that the 6% Construction DBE Goal was accepted by both the FAA and Creamer and Noble. Attorney Waddingham felt it was important to the City's position that the FAA supported the 6% Construction DBE Goal figure or any other percentage used to establish the Construction DBE Goal.

Attachment I to the resolution also noted:

The items listed under "Potential DBE Subcontract Work Items" are arbitrary subcontract cuts used by the City to arrive at an equitable DBE goal, while allowing the General Contractor awarded the contract some measure of flexibility. The above cost estimates and respective goals are based on the Engineer's estimate. The DBE dollar value may be adjusted based on 6% of the general contract bid amount. The Contractor will not be

required to the above cuts, but must implement a good faith effort to meet the City's goals of 6% of the general contract amount.

Attorney Waddingham asked Mr. Segmillar what the City's liability may be for not meeting the 6% goal. According to Mr. Segmillar, the contractor must make a "Good Faith Effort" to meet the 6% goal. If the contractor cannot meet the 6% goal, he must produce evidence of the efforts he made in attempting to meet the goal. The FAA, according to Mr. Segmillar, will determine whether the contractor has in fact made such good faith efforts in reaching the Construction DBE Goal. The City, therefore, would have no responsibility regarding the contractors duty to meet the 6% goal. In reality, although the City is requiring that the contractor meet the DBE goal, the FAA will determine the proper percentage of construction DBE goals and whether the contractor will need to meet that percentage goal.

Following further discussion, Council Member David Church MOVED to adopt Resolution No. 88-178 as presented. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a roll call vote. The voting was as follows:

Council Member Wesley Bloomfield	Yes
Council Member Gayle Bunker	Yes
Council Member David Church	Yes
Council Member Don Dafoe	Yes
Council Member Rex T. Harris	Absent

Mayor Hansen then signed the resolution and it was attested by City Recorder Dorothy Jeffery.

ATTORNEY RICHARD WADDINGHAM: CLOSED SESSION TO DISCUSS LITIGATION

Attorney Richard Waddingham requested that the Council go into closed session to discuss pending litigation. Council Member Gayle Bunker MOVED that the Council meeting closed session at 6:40 p.m. The motion was SECONDED by Council Member Don Dafoe. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a roll call vote. The voting was as follows:

Council Member Wesley Bloomfield	Yes
Council Member Gayle Bunker	Yes
Council Member David Church	Yes
Council Member Don Dafoe	Yes
Council Member Rex Harris	Absent

Following the closed session, Council Member David Church MOVED to reconvene to special City Council meeting at 6:50 p.m. The

motion was SECONDED by Council Member Wesley Bloomfield. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

Mayor Hansen asked if there were any further comments, questions or items to be discussed. There being none, Council Member Wesley Bloomfield MOVED to adjourn. The motion was SECONDED by Council Member Don Dafoe. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously. Mayor Hansen declared the meeting adjourned at 6:55 p.m.

  
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RUTH HANSEN, Mayor

  
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DOROTHY JEFFERY  
Delta City Recorder

MINUTES APPROVED: RCCM 8-22-88